IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

-

WRIT PETITION NO : 5020 of 2003

Between:

Entrepreneurs Welfare Society (Regd. No. 126/1999),

Plot No.5, Industrial Estate, Bhimavaram,
Ch. Subba Rao, S/o. Guravaiah, Aged 67, years

D.No. 8-1-33, Sridevi Ayyappa Nilayam,
Opp. St. Mary's High School, R.P. Road, Bhimavaram.

Cause Title is amended as per Court Order

dt.5.8.04 in WPMP.17590/04

..... PETITIONER

AND

1. A.P. Industrial Infrastructure Corporation Ltd., Govt. of A.P.,

Undertaking , rep. by its Vice Chairman & M.D.
Parisrama Bhavan, Basheerbagh, Hyderabad.
2. The Executive Director (Estates and Administration) A.P. I.I

C.Ltd., (A. Govt. of A.P., undertaking),
Parisrama Bhavan, Basheerbagh, Hyderabad.
3. The Senior Manager (Development), A.P. I.I C. Ltd., (A. Govt. of

A.P., undertaking),
Parisrama Bhavan, Basheerbagh, Hyderabad.
4. The Zonal Manager, A.P. I.I C. Ltd., (A. Govt. of A.P.,

undertaking), Kakinada, East Godavari District.
5. The Assistant Zonal Manager, A.P. I.I C. Ltd., (A. Govt. of A.P.,

undertaking), Industrial Estate, Satrampadu, Eluru, West

Godavari District.
6. Notified Municipal Industrial Area Service Society, Bhimavaram

(Registration No.1/97), Industrial Estate, Bhimavaram,

W.G. District, rep. by its Secretary, Sri Tiruveedhula

Venkateswarlu, 55 Years, R/o. Industrial Estate,

Bhimavaram, West Godavari District.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ of Mandamus or any other appropriate writ, order or direction declaring the action of the respondents 1 to 5 herein in not registering the land situated in R.S.No.158/2 of Industrial Estate, Bhimavaram, West Godavari District in favour of the petitioner herein by accepting the balance of the cost of the land pursuant to the letter No.DW/EWS/2000 Dt. 21.10.2002 issued by the 3rd respondent herein and letter No.5310/B/94/3129 Dt. 31.10.2002 issued by the 4th respondent herein as illegal, arbitrary, unreasonable and violative of Articles 14 and 21 of the Constitution of India and consequently direct the respondents 1 to 5 herein to Register the land in R.S. No. 158/2 of Industrial Estate, Bhimavaram, West Godavari District in favour of the petitioner by receiving the balance of the cost of the land.

Counsel for the Petitioner: MR.A.V.SESHA SAI

Counsel for the Respondents 1 to 5: Mr R. Subba Rao, Standing Counsel for APIIC

Counsel for the Respondent No.6 : MR.C.S.K.V.RAMANAMURTHY

The Court made the following:

ORDER:

1. The Writ Petitioner, a society registered under the provisions of the Societies Registration Act, 1860 claims to be comprised of Industrial Workers and Industrialists from the Industrial Estate, Bhimavaram as its members and to have been formed to cater to their benefits including provision of housing facility to its members. Since 1999-2000 many representations were made to the officers of the first respondent for allotment of land for the purpose of construction of houses for the benefit of its members. The fourth respondent/Zonal Manager in his letter dated 07.04.2000 forwarded to the second respondent proposals pursuant to the request of the petitioner's society regarding allotment of an extent of 1.7 acres of land for housing purposes, on out right sale basis. Thereafter, there was correspondence between the officers of the first respondent and the petitioner regarding allotment of the land. Pursuant to some of this correspondence the petitioner's society had deposited an amount of Rs.4 lakhs and was willing to deposit a further amount of

Rs.9 lakhs. At that stage, in the year 2002, the officers of the first respondent recanted on the issue of allotment of land to the petitioner's society. Aggrieved thereby, the petitioner's society has filed this Writ Petition substantially in the nature of a suit for specific performance of an oral commitment made by the agents of the first respondent in respect of the allotment of land to the petitioner's society.

2. Mr A.V.Seshasai, learned counsel for the petitioner would urge that the Writ Petition is maintainable as the first respondent is an agency and instrumentality of the state within the meaning of Article 12 of the Constitution of India and is as such obligated to act fairly and reasonably in respect of its transactions including in the matter of allotment of land to the petitioner's society pursuant to earlier promise made and which have been part performed by the payments made by the petitioner's society of a part of the agreed amount, as to the value of the land proposed to be allotted to the petitioner's society. The relief sought in the Writ Petition is founded on an alleged agreement by the first respondent and its agents to alienate the land to the petitioner's society.

3. Having regard to the factual matrix, the relief claimed by the petitioner and the resistance to it by the respondent No.1 and its agents, the issues presented for adjudication in this Writ Petition are more properly considered before the Civil Court of competent jurisdiction and not by this Court under Article 226 of the Constitution of India. In the circumstances, this Court is not inclined to exercise the discretionary jurisdiction of issuing a Writ of Mandamus in the composite facts of the case. The Writ Petition is accordingly dismissed with a liberty preserved in the petitioner to pursue his remedies before the appropriate forum.

4. The petitioner states that it apprehends that the first respondent is actively considering allotment of the extent of Ac.1.07 cent of land initially earmarked for allotment to it, to the sixth respondent; and that on the basis of such an apprehension this Court had granted an interim order of status-quo by the order dated 25.03.2003 in W.P. M.P. No. 6604 of 2003. As this Writ Petition is being dismissed with a liberty to the petitioner to pursue the alternative remedy, this Court consider it appropriate to direct the first respondent and its agents to maintain status-quo in respect of allotment of an extent of Ac.1.07 cents of land in R.S. No. 158/2 of Industrial Estate, Bhimavaram for a period of two months from today. To avoid any misapprehension it is clarified that neither the interim order granted by this Court on 25.03.2003 or the order of status quo granted herein shall be considered as

expression on the merits of the case of either of the parties, by this Court and the appropriate forum before which any proceedings are initiated by the first respondent in respect the of grievances urged herein shall be considered by the said forum uninfluenced in any manner by the orders of *status quo* ad interim granted earlier by this Court or in this order.

5. The Writ Petition is dismissed with the above observations. No costs.

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24-11-2004

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To

1. The Vice Chairman and MD, A.P. Industrial Infrastructure

Corporation Ltd., Govt. of A.P., Undertaking ,
Parisrama Bhavan, Basheerbagh, Hyderabad.
2. The Executive Director (Estates and Administration) A.P. I.I

C.Ltd., (A. Govt. of A.P., undertaking),
Parisrama Bhavan, Basheerbagh, Hyderabad.
3. The Senior Manager (Development), A.P. I.I C. Ltd., (A. Govt. of

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undertaking), Industrial Estate, Satrampadu, Eluru, West

Godavari District.

6. 2 CC to SC for APIIC, High Court Buildings, Hyderabad (OUT)

7. 2 CD copies